

# NOTICIAS



Barracks-like house John Russell built, with farm buildings and Cuyler's Harbor

# *The Waters Family of San Miguel*

By STELLA HAVERLAND ROUSE

Hidden in the pages of Santa Barbara's old newspapers are many strange stories of the city's early residents, but none are more bizarre, perhaps, than the record of Captain William G. Waters, who claimed 14,000-acre San Miguel Island in the late 1800s. With the exception of the report of the "seizure" of the island by President Grover Cleveland, few events of Captain Waters' life were recorded as they happened, but at trials contesting his will in 1917 and 1918 many circumstances were revealed.

Born in Maine in 1838, Captain Waters was descended from English ancestors who settled in the United States early in the eighteenth century. As a young man he was a clerk and apprenticed machinist in Massachusetts. At the outset of the Civil War he enlisted in Company C, Fifteenth Massachusetts, participating in several important battles and being commissioned first lieutenant. He was honorably discharged in 1863 because of physical disability. When the war ended, he was elected captain of the regiment, and was commissioned by Governor Andrews of Massachusetts.<sup>1</sup>

After employment as a master mechanic at manufacturing concerns in civilian life, he was in charge of the press department of the *Boston Daily Advertiser*, of which his brother was half owner. He was asked to install the first Rapid Perfection Printing Press on the Pacific Coast in 1877. For several years he was in charge of press department of the *San Francisco Morning Call*. Information from the California Historical Society reveals that he was listed in *San Francisco Directories* for 1879 and later as "Foreman, press rooms, *Morning Call*." The last directory there to list him, 1885, shows his occupation as "printer."

Captain Waters' first wife had secured a divorce from him in Boston before he came west. While he was in San Francisco, he married Minnie Richardson Scott, who had come to San Francisco in 1861. Because of her failing health, he brought her to Santa Barbara,<sup>2</sup> then considered a tuberculosis health center, in 1887, and became interested in San Miguel Island.

The first Caucasian sojourners on the island were Cabrillo and his men in 1542. Years later they were followed by sea otter hunters, including Captain George Nidever in the 1830s. In 1850 Captain Nidever bought "the right to use the island" from a sheepowner occupant by the name of Bruce and shipped additional stock there.<sup>3</sup> He sold his interest to Hiram and Herman Mills, from whom Mrs. Elizabeth Lester says Captain Waters acquired San Miguel.<sup>4</sup>



While the island seemed bleak and unattractive for many years, probably because of over-grazing of sheep at one time, several governments and individuals have coveted it. In December, 1895, the *Morning Press* reported that England intended to take advantage of a technicality in order to acquire a coaling station between Vancouver and Honolulu. According to the news item, the Channel Islands were not included in the territory which Mexico ceded to the United States after the Mexican War. The treaty was redrawn a few years later, but San Miguel was inadvertently omitted from the list of islands the United States was to acquire, and now England was intervening:

"Tis true that Captain Waters claims the island by right of location and continuous residence, but of course England would not mind a little thing like that.<sup>5</sup>

President Grover Cleveland must have heard of the threat, for in July, 1896, Nicholas Covarrubias, local United States Marshal, had orders to sail with a group of surveyors from Gaviota to San Miguel to appropriate the territory. Captain Waters met the marshal when he landed on the beach. The tenant of San Miguel protested only feebly to the "invasion," saying that he would not resist orders from President Cleveland which were read to him. He wanted to protect his sheep, however, and would furnish all the mutton the men needed, provided he could select the animals for slaughter. The captain hospitably sent down a team to haul the men's baggage to their camp.<sup>6</sup>

Years later, Nick Covarrubias told a slightly more flamboyant version of the incident: that since Waters had the reputation of being a "bad hombre," Covarrubias had

set about recruiting an army, chartered a vessel and rounded up a formidable bunch of deputies, armed them to the teeth, and set sail for the island. When Waters saw them in the offing, he decided that the Army was much too strong, and he surrendered at discretion. He was invited aboard and proved his friendship by eating prodigiously of the good things which had been secured for the Army.<sup>7</sup>

The surveyors completed their work, and the island was assumed by many to be a United States Possession, although from time to time usurpers have challenged proprietorship.

In February, 1897, the San Miguel Island Company filed papers of incorporation to

engage in the business of farming and raising stock on San Miguel Island . . . to acquire by grant, lease or otherwise the island, and to sell, convey, lease, rent, etc., the same; to construct, build, equip and operate one or more vessels for transportation of persons and property to and from the island. . . .<sup>8</sup>

The directors were William G. Waters of San Miguel Island, and several Los Angeles men. The capital stock was \$50,000, divided into 5000 shares of the par value of \$10 each. Five hundred dollars had been subscribed.

In March, 1897, two deeds which sounded rather misleading were reported filed in the County Recorder's office:

The first conveys from William G. Waters to Jeremiha (sic) Francis Conway an undivided one-third interest in the island of San Miguel and all property thereon. The second conveys from said William G. Waters and J. F. Conroy to the San Miguel Island Company the whole of San Miguel Island, together with all the property now upon the island, which is enumerated as follows: Three thousand sheep and lambs, eighteen horses and mules, one otter boat, three skiffs, two small boats, one farm wagon, one cart, three plows, one harrow, five saddles and bridles, one set of double harness, blacksmith and other tools, household furniture and utensils, various buildings, sheds, etc.<sup>9</sup>

Occasionally in the early 1900s there were small items in local newspapers regarding the captain's business activities. On March 17, 1904, he returned from San Miguel where he had spent a month looking after his stock. Since there had been a heavy rainfall, the feed crop would be sufficient to carry him through the summer. He brought back a sack of mushrooms that were unusually large, some of them measuring ten inches across the top.<sup>10</sup> At first he had used sailboats for transportation, but lost three and a sailor overboard, so he purchased a gasoline launch.<sup>11</sup> Sometimes the trip across the channel was made from Gaviota, the shortest distance by boat between the two bodies of land. Each spring men were taken to the island for sheep shearing. They were provided with round metal tokens labeled "San Miguel," with Waters' name and "1 sheep," which they hung as tallies for each sheep shorn.

In September, 1916, when Captain Waters renewed his San Miguel lease for an additional five years, until November, 1921, he stated that he believed, if he were younger, he could prove his right of ownership,

because the fact that I lived on the island for twenty-five years without anyone questioning my right, and that I built a home and other buildings there, would, I think, be accepted in Federal courts as proof of my title to the property.<sup>12</sup>

Captain Waters had had a reliable man and his wife, Mr. and Mrs. John Russell, in charge of the place for ten years, and a substantial house had been built by Russell from salvaged shipwreck lumber. Captain Waters was too old to battle the government for a title then, and apparently he was tired of managing his holdings, for on January 9, 1917, he gave to R. L. Brooks and J. R. Moore



a contract for the purchase of all the sheep, cattle and other livestock and the personal property, buildings, fixtures and improvements on San Miguel Island. . . . together with the lease. . . . Captain Waters had of said island from the United States government for the period of five years from November 1, 1916.<sup>13</sup>

The purchase price was \$30,000 of which \$10,000 was paid then, and the balance of \$20,000 was to be paid in amounts of \$4000 annually in July, 1917, through July, 1921. There were supposed to be 2500 sheep for shearing.

Captain Waters had brought his second wife to Santa Barbara for her health in 1887. However, on August 10, 1889, the Morning Press stated that they had been in San Francisco securing treatment for her for a year, but were returning to live permanently in Santa Barbara since she seemingly had recovered. A death certificate in the Santa Barbara County Recorder's office states that she died of "consumption," January 17, 1890.

In April, 1917, Captain Waters suffered a stroke which resulted in his death, April 26, 1917. He had participated in local civic affairs, and had served a term as commander of the California and Nevada Department of the G. A. R. His obituaries stated that he was one of the founders of the Santa Barbara Club, and had been a member of the Jonathan Clubs of San Francisco and Los Angeles, the Knights Templars and the Masonic Lodge.<sup>14</sup>

The seventy-nine-year-old man left property, including real estate, stock in the Arlington Hotel and cash valued at \$48,000. Most of the estate, to be administered by the Santa Barbara Trust Company, was willed to an elderly brother in Boston. Interest on a \$5000 trust was to go to Charles, his son by his first wife, and one dollar to Edith, the foster child of his (second) deceased wife. This girl had been adopted when two and one-half years old by Mrs. Scott, a widow, in 1875, and by him June 3, 1887, after their marriage.<sup>15</sup> She later was the subject of considerable newspaper publicity.

The young girl had been in her teens when Mrs. Waters died in 1890, and Captain Waters attempted to rear her according to his standards. His opinion of Edith's character probably led to disinheriting her. Edith Scott-Waters-Walker-Basford-Burritt, his adopted daughter, asked that his holographic will be set aside because he left her only one dollar, because he was "mentally obsessed regarding the plaintiff," and "unduly influenced" by his ninety-two-year-old brother, John, to whom he left most of his estate.

A deposition sent from Boston by John for the first trial indicated that he had visited his brother, William once years previously, and had been coming west every year for about ten years to spend the winter. John stated that he thought he was in the room in 1916 when Captain Waters typed his will, but he did not know what was in it. He knew that his brother had been perturbed by Edith's conduct years previously,



but he did not know the circumstances. The father and his adopted daughter had not communicated for some time. There were unanswered questions regarding whether Captain Waters had mishandled property Edith's foster mother left to her, and whether he had used some of her money in instituting farming operations on San Miguel Island.<sup>16</sup>

At the conclusion of the first short trial, December, 1917, the jury failed to reach a verdict.<sup>17</sup>

In the second trial, May, 1918,<sup>18</sup> the stellar role was taken by Edith Scott Burritt,

a brilliant writer and theatrical woman, who, though disappointments and sorrow have been her lot, is very attractive and has a winning way with her.

During portions of the trial she sat "quietly knitting." She was described by a reporter:

A pleasant faced, matronly woman, dressed in plain clothes, she seemed anything but the fascinating vampire that the defendant's attorney sought to paint her. She shows traces of having once been a most remarkably handsome woman, but the years have erased all but a calm, pleasing, motherly look. Her small son, a child by her last husband, plays around the courtroom, a happy, well-behaved little fellow, and comes in for a part of her care. . . .

She made "a splendid witness," for she was "quiet and well poised."

Her voice, low and deep-throated, could be heard distinctly in all parts of the courtroom and she was never asked to repeat her answers.

On the defense side was John A. Waters, who had been a financial partner in the island sheep business, it was said. He, according to the complaint, had unduly influenced his brother to exclude Mrs. Burritt and Charles, the son by his first wife, from a major inheritance. Captain Waters had seemed the healthier of the two, and was several years younger. John, the survivor, reported to have a fortune of \$250,000, had not been fatigued by his long trip from Boston, and was "bright, erect, quick of thought and ready with his answers" on the witness stand. The *Morning Press* pointed out that he seemed to enjoy the trial immensely, and "watched every move between the opposing counsels with great interest."

While the uncle, John, occupied a seat apart from the contestant and her foster brother, he seemed "to be on friendly terms" with some of the family, for on Tuesday he and Mrs. Charles Waters "took lunch together and chatted gaily."

Charles Waters, the Captain's son, had left his grain business in St. Paul, Minnesota, about 1907, at the invitation of his father, to help in the sheep business here. Later, his father had "turned unaccountably against him," and in 1912, according to Charles' obituary when he died

at the age of seventy-two in 1936, he had become a public accountant for several large firms here.<sup>19</sup>

Charles, with the income from a trust of \$5000, and his wife, given a lot on Third Avenue, were not contesting their bequests, but were testifying for Edith's good character, for anyone questioning his share in the will was to be cut off with nothing.

Edith's life was reviewed thoroughly during the second trial in May, 1918: The young girl had had some previous dramatic and musical training before Waters' adoption of her when she was about fourteen years old, and for a while the captain had

willingly joined his wife in giving the child every advantage that money could buy.

Although he then had been proud of her talents, achievements and progress, when she was called home from an exclusive girls' seminary in San Francisco because of her mother's illness, the attorney held, she found Captain Waters changed. He had become

critical and fault-finding, and suspicious of her every act. Even before the mother's death in January, 1890, he had begun to turn against the child that he had been so fond of. He began watching her when she practiced her music, and would not let her go to a neighbor's house and practice because the neighbor had a young son. He said she could not be trusted and refused to allow her to attend the dances at the Arlington, where because of her high spirits and beauty and musical ability she was a general favorite.

After Mrs. Waters' death, the girl, then about sixteen, instead of returning to her studies, was taken by Captain Waters to San Miguel, where she spent four years, with only occasional trips to Santa Barbara, San Francisco and other places. She was "virtually a prisoner" on the bleak island, composed of

rocks and white sand; limestone hills and one green mountain; a roughly builded house in which railroad ties form a part of the construction; a bunk house for the men, and corrals for the sheep, hogs and cattle, where the wind blows a gale all the time.

According to her, it was a "life of hard toil, lacking in every comfort, devoid of affection from the captain," who had said he was taking her to the island "where she could be watched." She told how she had removed the worn-out matting from her little room under the eaves, "because the matting contained so many fleas." After the girl lived on the island for a while, a friend, Mrs. Gatey, told Captain Waters that while she enjoyed Edith's visit to the mainland, her dresses were so old-fashioned and worn that she would have to ask the girl to terminate her stay.



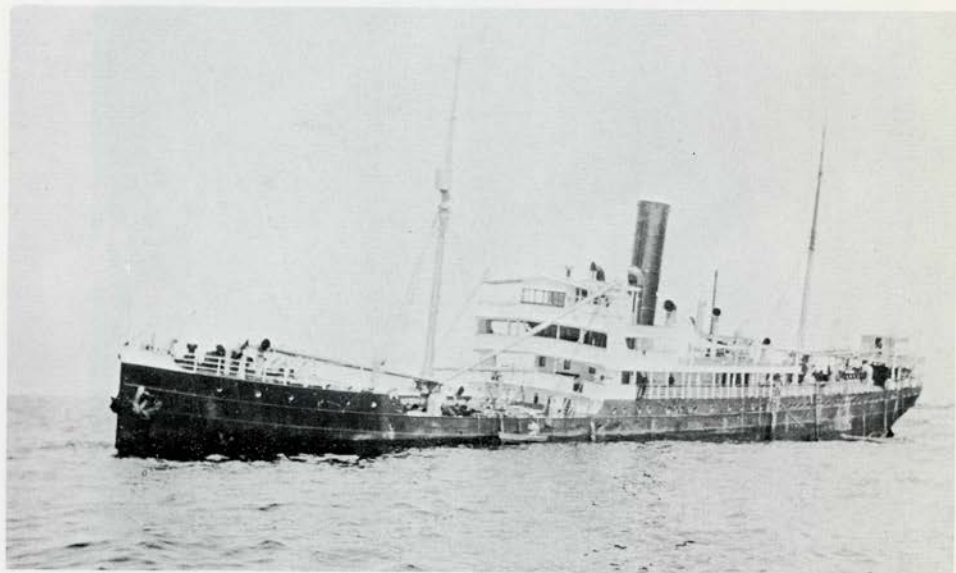


West end of San Miguel Island, 1931

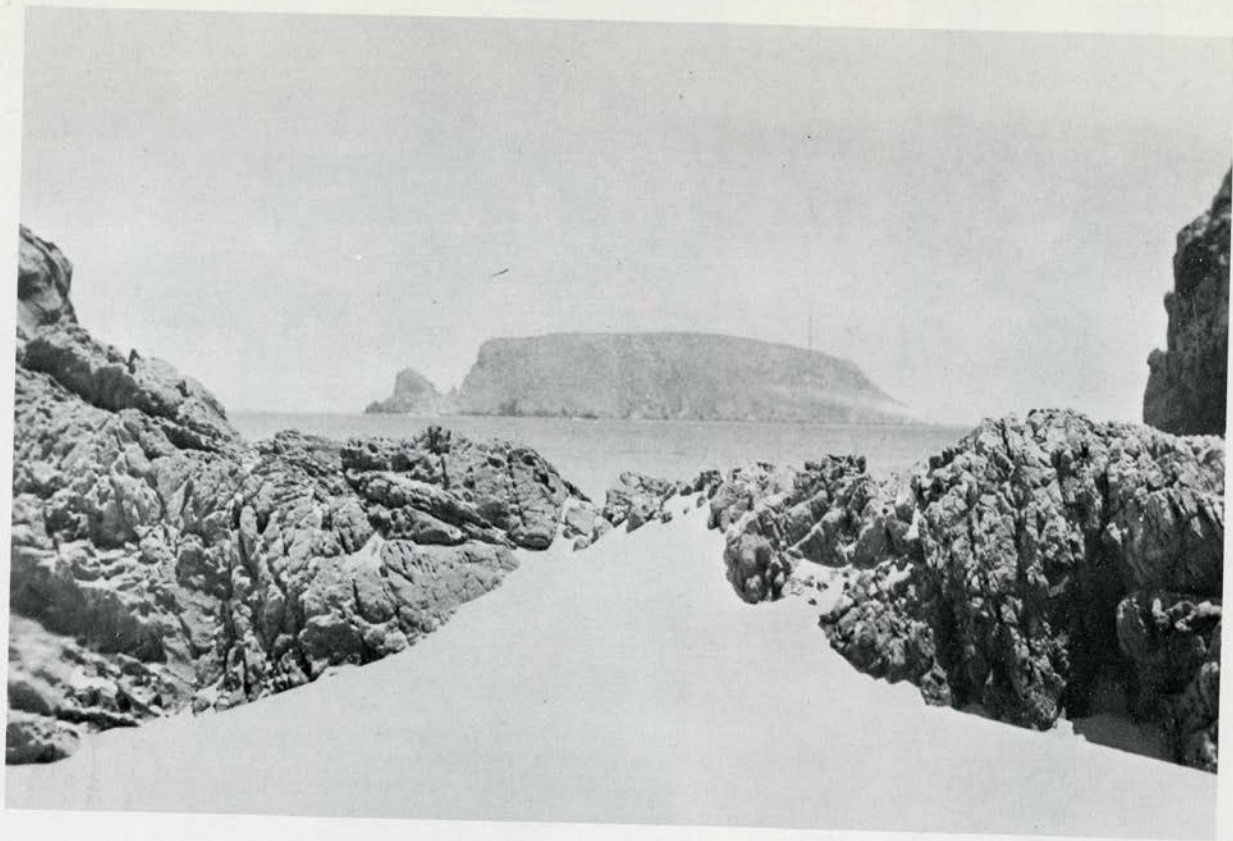




Cliffs near Cuyler's Harbor, San Miguel



One of the many shipwrecks near San Miguel

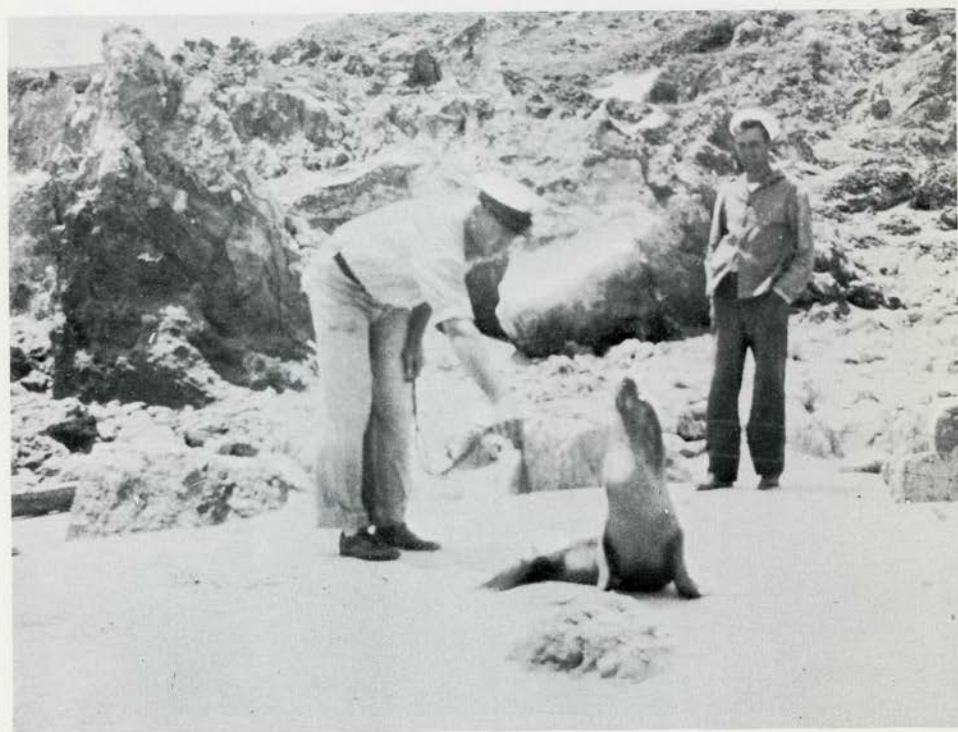


Prince Island taken from San Miguel Island beach





Launching a boat in the waves



Coast Guard with seal, 1934

The San Francisco attorneys for the plaintiff showed by witnesses' testimony that the girl had borne an excellent reputation when she was younger, and that she had been reared by a particular mother. They declared that she had been obedient to her father while she was on the island, and that

when sworn at by the captain and told to go into the house, she had always obeyed without comment.

When the counsel for the defense (William G. Griffith and Harry W. T. Ross) had its turn, the attorneys

drew the picture of a headstrong, wilful girl, rebelling at every precaution taken to protect her character . . . high-spirited and fond of the gay side of life, and who later wore out the patience of the father by continually trying to get money from him.

They declared that Captain Waters had been "in financial straits" when he took her from the more comfortable surroundings, and that he had provided as good clothing as he could afford, and a "horse for her amusement."

While several fishermen had told of the work she was required to do, and how roughly her foster father had treated her, a young man whose mother worked for the captain on the island testified that since his mother had been employed there, Edith did not have to work. A woman visitor recounted that she had found the cabin home "clean and comfortable," and Edith's room a pretty one, with a shelf of good books and pictures on the walls.

According to the plaintiff, the dreary life there culminated in her flight from San Miguel. An unkempt waterfront character who sometimes gathered guano on the islands and brought it to the mainland in his skiff, landed her at Gaviota, where she took a stagecoach for Santa Barbara. This account of her escape greatly interested the jury, and

when Mrs. Burritt said that she knew the end of the boat was filled with wool because she could see the brown sacks and smell the wool, one of the older men nodded his head as if he, too, knew the odor peculiar to clipped wool.

Then had begun a part of her life which was publicized concurrently as it evolved: She went on the stage in San Francisco, where she met and married the son of an ex-millionaire.

The young man had nothing to give his wife but love, and this soon waned, so she was compelled to stick to the stage and hoe her own row. . . .<sup>20</sup>

After her husband abandoned her, their child was born in the Los Angeles County Hospital. She left the baby girl in charge of Mrs. M. S. Chisholm,



and returned to San Francisco, asking the woman to find a married couple to adopt the rather frail infant, Dorothy.

Nicholas C. Creede, discoverer of Colorado gold mines, saw the infant and was favorably impressed. Adoption followed.<sup>21</sup> Some time about 1895 he had begun action against his wife for divorce on the grounds of cruelty, and made a settlement of \$20,000 on Mrs. Creede. The "old prospector" died July 14, 1897, leaving an estate valued at "less than \$500,000" to his adopted child, Dorothy.<sup>22</sup>

Meanwhile, Edith had married "an honest business man from San Francisco," but she could not get the "bewitching infant" back since she had been legally adopted, but

after the death of Creede there was a fight of many interested parties for the guardianship of the child. The probate wisely, however, determined that under the circumstances the mother was the proper one for that place, so that despite the one-time little likelihood of the two being reunited, they are now together again, and will probably so remain until the little heiress attains her majority.<sup>23</sup>

Litigation regarding "the millionaire's" previous sale of the Amethyst Mine, and Mrs. Creede's attempt to acquire part of the estate continued until January 9, 1901, when a settlement was made by Dorothy's estate guardian, Roger Johnson, according to a story with a San Francisco date line in the *Denver Times*.<sup>24</sup>

Portions of Edith's life in the theatrical world were reviewed by Attorneys Griffith and Ross to prove her "questionable character," but the jury reached a verdict on the second ballot, in favor of Edith Scott Burritt,

a complete vindication of Mrs. Burritt, as her character was the point at issue in the matter.

According to the *Daily News*, the jury considered the captain "of unsound mind [in relation to his children] when his will was made."

Uncle John is perhaps the most cheerful loser of a \$50,000 estate that has ever appeared in court. His principal worry was the question that he had used undue influence to get his brother to leave him his estate, and when this question was settled, he lost all interest in the case. According to the court's instructions, the estate will be equally divided between the daughter, Edith Scott Burritt of Santa Monica, and the son, Charles D. Waters of this city.

Attorney Griffith notified the court that he would move for a new trial. When the third hearing was about to take place in April, 1920, the case was settled out of court "by payment of \$2500 to Mrs. Edith Scott Burritt," who had contested the will. The court found that Captain

Waters was sane, and the Santa Barbara Trust Company was made administrator of the estate, to be distributed as designated in the will.<sup>25</sup>

In the mid-1920s Edith Scott (Waters-Walker-Bashford) Burritt lived in Santa Barbara for a while, according to local *Directories*. In April, 1927, she directed a Strollers' play, Laurence Houseman's *A Chinese Lantern*, presented in the lounge of the Samarkand Hotel. Only one resident, who as a boy lived with his family next door to her, recalls her slightly, but her later life and that of her children is unrecorded locally.

She died December 21, 1935, in Victoria, B. C. Her death certificate gives her occupation, "singer," and marital status, "divorced." Charles, her foster brother, died June 24, 1936, and the Trust Department of the County National Bank, Santa Barbara, in settling the trust from which Charles had benefitted for almost twenty years, listed four living descendants of Edith as beneficiaries: two men by the name of Basford, of three sons born to that marriage; Roland Burritt, the surviving son of two boys born to Edith under the name of Burritt, and the only son receiving property under her own will. Dorothy Walker-Creede-Ritchie, her daughter, had died in 1918, but Dorothy's daughter, born in 1917, survived, and inherited personal property of Edith Scott Burritt, her grandmother.<sup>26</sup>

#### NOTES FOR PAGES 43-51

1. Guinn, James Miller. *Historical and Biographical Record of Southern California*. Chicago: Chapman Publishing Co., 1902, p. 649.
2. Guinn, op. cit., p. 250.
3. Writers' Program, Works Projects Administration. *Santa Barbara: A Guide to the Channel City and its Environs*. New York: Hastings House, 1941, pp. 74-75.
4. Lester, Elizabeth Sherman. *The Legendary King of San Miguel: the Lesters at Rancho Rambouillet*. Santa Barbara: W. T. Genns, 1974, p. 2.
5. *Morning Press*, 22 December, 1895.
6. *Daily News*, 13 July, 1896. (sic)
7. *Daily News and Independent*, 30 December, 1922.
8. *Morning Press*, 7 February, 1897.
9. *Morning Press*, 9 March, 1897.
10. *Weekly Press*, 17 March, 1904.
11. *Daily News and Independent*, 25 September, 1916.
12. *ibid.*
13. *The Claim of R. L. Brooks and J. R. Moore for Credit on Contract*, on file in the Superior Court of the State of California, in and for the County of Santa Barbara, Case No. 10262, litigation over Captain Waters' will. Edith Scott Burritt vs. Santa Barbara Trust Co.
14. *Daily News and Independent*, 27 April, 1917, and *Morning Press*, 27 April, 1917.
15. Papers on file in the Superior Court of the State of California, in and for the County of Santa Barbara, Case No. 10262, listed above.



16. Deposition on file in the Superior Court of the State of California, Case No. 10262, listed above.
  17. *Daily News and Independent*, 19 December, 1917, and *Morning Press*, 19 December, 1917.
  18. *Daily News and Independent*, 7, 8, 11, and 14 May, 1918, and *Morning Press*, 8, 9, 10, 11 and 14, 1918.
  19. *News-Press*, 25 June, 1936.
  20. *Morning Press*, 25 July, 1895.
  21. *Herald*, 29 December, 1899.
  22. *Denver Republican*, July 15, 1897.
  23. *Herald*, op. cit.
  24. *Denver Times*, 9 January, 1901.
  25. *Daily News and Independent*, 6 April, 1920, and *Morning Press*, 6 April, 1920.
  26. Report of Trust Department, County National Bank, on file in the Superior Court of the State of California, in and for the County of Santa Barbara, Case No. 10262, listed above.
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## *An Appeal to Our Readers*

Some members of the Historical Society are interested in the history of San Marcos Pass. As the nearest route over the mountains from the Santa Ynez Valley, the Pass has always been intimately associated with the history of Santa Barbara, but there appears to be little information about the history of the Pass itself: there is practically none in the Historical Society library, and Father Maynard Geiger of the Old Mission, in an article about Santa Barbara roads in the Mountain Passes issue of *Noticias* (Spring, 1964) says there is very little in the Mission Archives. Although research would seem to be in order, it is also necessary to tap the memories of old timers and the stories told by them to sons, daughters and grandchildren.

Hugh Weldon's memories go back to 1913, but there must be others—old timers still living or descendants to whom they told stories. If there are, it surely would be most helpful if they were brought forth, covering such topics as when the narrow, winding dirt road was built that supplanted the original road over Slippery Rock; the route of the road past Hobo Rock and the old stage station; traffic over the pass by stages; large wagons hauling wood and freight and whether they were hauled by horses or mules; the toll road over the summit of the Pass; when the road was black-topped or paved, and changes in the route.

If our readers know of any such stories or memories, please convey them to the librarian of the Historical Society, and he will collect them and be happy to have them. Also, if anyone might be interested in doing research on the subject, let him know. Hugh Weldon and others will be happy to give a researcher what information they have as a starter.